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Letter dated 27 November 2012 from the Chargé d'affaires a.i. of the Permanent Representative of South Africa to the United Nations addressed to the President of the Security Council

I have the honour to transmit a copy of the letter dated 26 November 2012 from the representative of the Frente Polisario addressed to the President of the Security Council (see annex).

I would be grateful if the present letter and its annex could be circulated as a document of the Security Council.

(*Signed*) Zaheer **Laher**
Chargé d'affaires a.i. of the Republic of South Africa

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Annex to the letter dated 27 November 2012 from the Chargé d'affaires a.i. of the Permanent Mission of South Africa to the United Nations addressed to the President of the Security Council

I have the honour to refer to upcoming consultations of the Security Council on the situation in Western Sahara.

In recent months, the members of the Security Council have repeatedly voiced their support for political transitions reflecting democratic principles and respect for human rights in the Middle East and North Africa regions. These events have demonstrated that any solution to the conflict in Western Sahara must reflect the will of its people if it is to be credible, sustainable and foster peace, security and regional integration in the long term. It is essential that the Security Council now take decisive steps to reinvigorate and drive the negotiation process to a prompt conclusion that will provide for the self-determination of the people of Western Sahara.

It is worth recalling that this week's consultations follow months of unfortunate delay in the peace process forced by an unprecedented Moroccan campaign to undermine the United Nations and its efforts to resolve the conflict. As set out in detail in the letter of 25 May 2012 from the President of the Frente Polisario to the President of the Security Council, this campaign was particularly evident in Morocco's announcement in May 2012 that it no longer wished to cooperate with the Personal Envoy of the Secretary-General, Ambassador Christopher Ross.

Morocco's actions have contradicted its own vote in favour of Security Council resolution 2044 (2012) which explicitly affirmed the Council's support for Ambassador Ross's work to facilitate negotiations between the parties, and had the unfortunate result of indefinitely postponing two rounds of informal talks scheduled for June and July 2012, and a scheduled visit by Ambassador Ross to Western Sahara and the region in May.

In its resolutions 1920 (2010), 1979 (2011) and 2044 (2012), the Security Council recognized that "consolidation of the status quo in Western Sahara is unacceptable", and called for "an intensified pace of meetings and strengthening of contacts" between the parties. Despite Morocco's unconstructive and disruptive manner, and pursuant to the first visit of Ambassador Ross to Western Sahara and his meetings in regional and European capitals, the upcoming Council consultations are an opportunity to break with the past 21 years of delay and obstruction, and to reverse international failure, by moving quickly and decisively to organize the referendum that will, once and for all, allow the Saharawi people to choose their own political future.

As confirmed by the International Court of Justice in 1975 and by all relevant resolutions of the General Assembly and the Security Council, there are no facts, legal or otherwise, which affect the inalienable right of the people of the non-self-governing Territory of Western Sahara to a process of self-determination, which constitutes the free and genuine expression of their political will.

At this critical juncture, Polisario wishes to confirm its willingness to consider approaches for intensifying and accelerating talks at the highest level. Such an approach would be strengthened by including a clear timetable and deadline for the holding of a referendum, as required by international law and contemplated by the parties' respective proposals of April 2007. As the Secretary-General himself noted

in his 2011 report on the situation in Western Sahara (S/2011/249), "what is clear is that arrival at a final status on which this population has not clearly and convincingly expressed its view is likely to engender new tensions in Western Sahara and the region".

We also look to the Security Council to consider and address in detail the challenges confronting the United Nations Mission for the Referendum in Western Sahara (MINURSO), as described in the Secretary-General's most recent report on the situation in Western Sahara (S/2012/197). The gradual undermining of the credibility and impartiality of the United Nations Mission, and its drift from its core mandate, is unacceptable. The Polisario is committed to working closely with the United Nations in its efforts to improve the quality of life of the people of Western Sahara, in accordance with its obligations under the Charter of the United Nations, to protect and ensure the well-being of the non-self-governing Territory of Western Sahara.

It remains a significant stain on the credibil'.y of the Security Council, and, on the United Nations system more broadly, that MINURSO continues to be the only peacekeeping operation established since 1978 that operates without a human rights capacity. Indeed, the United Nations own publication, "United Nations Peacekeeping Operations: Principles and Guidelines" provides that its "operations should be conducted in full respect of human rights and should seek to advance human rights through the implementation of their mandate".

The current reliance on the special procedures mechanisms of the Human Rights Council is grossly insufficient. There have been only two visits by representatives of special procedures to Western Sahara, for a total of just 36 hours, in the past 18 months since the adoption of Security Council resolution 1979 (2011). Ad hoc and thematically focused visits subject to Moroccan veto cannot provide a regular and overarching picture of the overall situation in the Territory. This was most recently demonstrated by Morocco's refusal in October 2012 to admit a human rights monitoring mission by the African Commission on Human and People's Rights.

The Frente Polisario continues to believe that only a permanent, in situ and expert human rights monitoring capacity within MINURSO would allow for quick response to emerging situations on the ground, and would facilitate direct reporting to the United Nations Member States, consistent with the Organization's obligations under its Charter and successive Security Council resolutions to establish the conditions for a referendum of the people of Western Sahara.

In this connection, and as a demonstration of its own good faith and commitment to human rights, the Frente Polisario has recently communicated to the United Nations High Commissioner for Human Rights its readiness to allow United Nations human rights officers to monitor and report on the human rights situation in the Tindouf refugee camps.

The Frente Polisario also wishes to draw attention to the ongoing illegal exploration and exploitation of the natural resources of Western Sahara. In particular, we would like to express our most serious concern at efforts by the European Union and Morocco to renew arrangements under their 2005 Fisheries Partnership Agreement to the effect that such arrangements purport to apply to the waters adjacent to the coast of Western Sahara. Similar arrangements were rejected by the European Parliament in a vote on 14 December 2011 due to concerns that the

proposed protocol violated international law, as reflected in the finding by the United Nations Legal Counsel in 2002 that activities related to the natural resources of Western Sahara must not proceed in "disregard of the interests and wishes of the people of Western Sahara" (S/2002/161). We call upon Morocco and all foreign entities to halt the unlawful exploitation of Western Sahara's resources and desist from entering into any agreements that would violate the Saharawi people's permanent sovereignty over their natural resources.

Finally, the Frente Polisario would like to reiterate its commitment to promoting peaceful relations and stability in the Maghreb region. In this regard, the worsening security situation in the Sahel and the political instability in Mali constitute a source of serious concern. The Frente Polisario confirms its support for the efforts of the international community, including through the United Nations and the African Union, to re-establish peace and stability in Mali. At the same time, we note that these emerging concerns again reinforce the need for the United Nations to do its utmost to find a peaceful solution to the conflict in Western Sahara, which continues to constitute a fundamental obstacle to greater cooperation and stability in the region.

In conclusion, I wish to confirm the availability of the Frente Polisario to address the Security Council during its upcoming consultations.

I would be most grateful if you would circulate the present letter to the members of the Security Council.

Ahmed **Boukhari**
Representative of the Frente Polisario to the United Nations